REMARKS

In the Office Action dated October 30, 2006, the Examiner states that this application contains the following groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1.

I. Claims 1-7, drawn to conotoxin peptides and derivatives.

II. Claims 9, 11-12 and 14, drawn to methods of treating urinary conditions/diseases.

III. Claims 9, 11-12 and 14, drawn to methods of treating cardiovascular conditions/diseases.

IV. Claims 9, 11-12 and 14, drawn to methods of treating mood disorders.

V. Claims 9-12 and14, drawn to methods of treating neuropathic pain.

VI. Claims 9, 11-14, drawn to methods of treating migraine.

VII. Claims 9 and 11-14, drawn to methods of treating inflammation.

In order to be fully responsive to the Examiner's requirements for restriction, Applicants provisionally elect, with traverse, to prosecute the subject matter of Group I, Claims 1-7, drawn to conotoxin peptides and derivatives, and SEQ ID NO: 4 as the species. Presently, all claims, i.e., claims 1-14, encompass the elected species of SEQ ID NO: 4. Applicants respectfully submit that the peptide of SEQ ID NO: 4 includes a side chain modification of the "Pro" residue of SEQ ID NO: 3.

However, pursuant to 37 C.F.R. §§1.111 and 1.143, Applicants hereby traverse the Examiner's requirement for restriction and request reconsideration thereof in view of the following remarks.

A requirement for restriction presupposes an analysis of the subject application in light of the rules governing this practice, i.e., 37 C.F.R. §1.499 and PCT Rules 13.1 and 13.2. PCT Rule 13.1, first sentence, states: "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ('requirement of unity of invention')." (Emphasis added.) PCT Rule 13.2 states: "The expression "technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." (Emphasis added.)

The Examiner alleges that the present inventions listed as Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. Specifically, the Examiner alleges that the technical feature of the groups, which is directed to conotoxin peptides, is not a contribution over the prior art. The Examiner alleges that Balaji et al. (*J. Biol. Chem.* 275(50): 39516-22, 2000) teach conotoxins with 1, 2, 7, 10 cysteine placement in the peptide sequence, which determines the conformation of the native peptide and therefore its binding characteristics. The Examiner is of the opinion that Balaji et al. disclose the common cysteine core structure of the conotoxins presently claimed. The Examiner therefore concludes that in the absence of this unifying structural feature of peptide toxins, which is already known in the art, the instant claims are separable and are properly restricted for examination.

Applicants respectfully submit that unity of invention is the issue at hand. The Examiner should not rely on the evaluation of novelty or unobviousness in order to determine whether the requirement of unity of invention is satisfied under PCT Rule 13.1. Applicants should be given the opportunity to argue the merits of the case during prosecution. Restriction of the claims on the basis of an alleged prior art would deny Applicants such an opportunity.

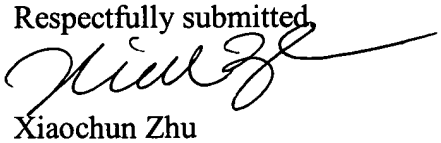
Moreover, Applicants acknowledge that claim 8 is considered by the Examiner to link Groups II-VII. The restriction requirement between the linked groups is subject to the non-allowance of claim 8. Applicants wish to remind the Examiner that upon the indication of allowability of claim 8, the restriction requirement as to the linked inventions shall be withdrawn and the claims depending from or otherwise requiring all the limitations of claim 8 will be rejoined and fully examined for patentability in accordance with 37 C.F.R. §1.104.

Additionally, Applicants remind the Examiner of the provisions of MPEP §821.04, regarding the rejoinder practice. The Examiner has required restriction between product and process claims, and Applicants have elected claims directed to the product. Where a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim should be rejoined in accordance with the provisions of MPEP §821.04.

Finally, Applicants respectfully submit that a determination to make the pending restriction requirement final must evidence the patentable distinctness of all eight groups, one from the other, as presented by the Examiner.

Accordingly, it is respectfully submitted that the present claims satisfy the requirements for unity of invention. Applicants respectfully urge that the Examiner reconsider and withdraw the requirement for restriction and provide an action on the merits with respect to all the claims.

Respectfully submitted,



Xiaochun Zhu
Registration No. 56,311

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza-STE 300
Garden City, New York 11530
(516) 742-4343 (XZ:ab)